

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEONARD KOSMALSKI,

Plaintiff,

v.

PROGRESSIVE PREFERRED
INSURANCE,

Defendant.

CIVIL ACTION
NO. 17-5726

ORDER

AND NOW, this 2nd day of May, 2018, upon consideration of Progressive's Motion to Dismiss Count II (ECF No. 3) and Kosmalski's Response (ECF No. 4), it is hereby **ORDERED** that:

1. Progressive's Motion is **GRANTED**;
2. Count II is **DISMISSED without prejudice**; and,
3. Kosmalski is granted leave to file an amended complaint on or before May 18, 2018.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.